

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MICHAEL J. O'CONNELL, MICHAEL E. O'MARA, )  
DANIEL P. MURPHY, MICHAEL T. CHUMLEY, )  
DONALD C. ORF, THOMAS CORRIGAN, JAMES )  
MURPHY, ROBERT SCHNITZER, JOSEPH BEETZ, and )  
ROBERT C. MITCHELL, in their representative capacities )  
as trustees of the Plumbers and Pipefitters Welfare )  
Educational Fund, the Plumbers and Pipefitters Pension )  
Fund, and the Plumbers and Pipefitters Local 562 )  
Supplemental Pension Plan and Trust, and )  
PLUMBERS AND PIPEFITTERS LOCAL 562, )  
Plaintiffs, )  
v. )  
S&J MECHANICAL CONTRACTORS, INC., )  
a Missouri corporation, )  
Defendant. )

**COMPLAINT**

Come now Plaintiffs, by and through their attorneys and for their cause of action against Defendant states:

1. Jurisdiction of the cause of action and the parties hereto is conferred upon this Court by subsections (a), (b) and (c) of Section 301 of the Labor Management Relations Act of 1947, as amended, 29 U.S.C. Section 185 (hereinafter referred to as the "LMRA"), and Sections 502(e)(1) and (f) of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sections 1132 (e)(1) and (f) (hereinafter referred to as "ERISA"). Venue in this Court is appropriate by virtue of 29 U.S.C. Section 1132 (e)(2).

2. The Plumbers and Pipefitters Welfare Educational Fund, the Plumbers and Pipefitters Pension Fund, and the Plumbers and Pipefitters Local 562 Supplemental Pension Plan

and Trust (hereinafter, the "Plumbers & Pipefitters Funds") are employee benefit plans created in accordance with the provisions of Section 302(c)(5) and (c)(6) of the LMRA, 29 U.S.C. Sections 186(c)(5) and (c)(6). The Plumbers & Pipefitters Funds are employee benefit plans within the meaning of Sections 3(3) and (4)(a) of ERISA, 29 U.S.C. Section 1002(3) and 1003(a), and are multi-employer plans within the meaning of Section 515 of ERISA, 29 U.S.C. Section 1145. The Plumbers and Pipefitters Funds are administered from offices located at 12385 Larimore, St. Louis, Missouri, within this judicial district.

3. Plaintiffs Michael J. O'Connell, Michael E. O'Mara, Daniel P. Murphy, Michael T. Chumley, Donald C. Orf, Thomas Corrigan, James Murphy, Robert Schnitzer, Joseph Beetz, and Robert C. Mitchell are the Trustees of the Plumbers & Pipefitters Funds, and as such, are fiduciaries within the meaning of Sections 502(a)(3) and (g)(1) of ERISA, 29 U.S.C. Sections 1132(a)(3) and 1132(g)(1).

4. Plumbers and Pipefitters Local 562 is a labor organization within the meaning of Section 2(5) of the LMRA, 29 U.S.C. Section 152(5), representing employees in an industry affecting commerce within the meaning of Section 301 of the LMRA, 29 U.S.C. Section 185.

5. Defendant S&J Mechanical Contractors, Inc. ("defendant") is a Missouri corporation in good standing and is an employer in an industry affecting commerce within the meaning of Sections 3(5), (11), (12), and 515 of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§1002(5), (11), (12) and 1145, and Sections 2(2), (6) and (7) of the Labor Management Relations Act of 1947, as amended, 29 U.S.C. §§152(2), (6) and (7) having an office and place of business within this judicial district.

6. Defendant is an employer within the meaning of Section 2(2) of the LMRA, 29 U.S.C. Section 152(2), and within the meaning of Section 3(5) of ERISA, 29 U.S.C. Section

1002(5). Defendant has engaged in commerce and activities affecting commerce as defined in Sections 3(11) and 3(12) of ERISA, 29 U.S.C. Sections 1102(1) and 1102(2).

7. Defendant has been party to a collective bargaining agreement with Plumbers and Pipefitters Local 562 at all times relevant hereto.

8. Defendant is bound by various Trust Agreements relating to the Plumbers and Pipefitters Funds.

9. Under the terms of the collective bargaining agreement, defendant was required to make contributions to the Plumbers and Pipefitters Funds pursuant to the formula set forth therein, to file monthly contribution report forms and to remit dues payments to Plumbers and Pipefitters Local 562.

10. Defendant has failed to make the required contributions and pay the required dues.

11. The collective bargaining agreement requires delinquent employers to pay liquidated damages, attorneys' fees, court costs, and audit costs.

12. Section 502(g) of ERISA, 29 U.S.C. Section 1132(g), provides that in an action such as this to enforce 29 U.S.C. Section 1145, the Court shall award the unpaid contributions, interest on the unpaid contributions, liquidated damages in an amount equal to the interest or in the amount set forth in the plan, and reasonable attorneys' fees and costs.

WHEREFORE, plaintiffs pray that this Court enter its order, judgment and decree awarding plaintiffs the following relief for their cause of action:

- a. A judgment for contributions and dues owed to the Plumbers and Pipefitters Funds;
- b. For liquidated damages, costs, and reasonable attorneys' fees pursuant to 29 U.S.C. §1132(g) and the collective bargaining agreement;

d. For such other and further relief as the Court may consider appropriate under the circumstances.

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GREG A. CAMPBELL #2774

Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing was filed electronically with the U.S. District Court on January 23, 2004, and copies of the foregoing were filed with the U.S. District Court via electronic mail this 15<sup>th</sup> day of January, 2003 and copies have been mailed, by certified mail, return receipt requested, to the Secretary of Labor, United States Department of Labor, P.O. Box 1914, Washington, D.C. 20013 and to the Secretary of Treasury, United States Treasury, 15th and Pennsylvania Avenue, Washington, D.C. 20220.